

TITLE 38: FINANCIAL INSTITUTIONS
CHAPTER I: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

PART 110
CONSUMER INSTALLMENT LOAN ACT

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AUTHORITY: Implementing and authorized by Section 22 of the Consumer Installment Loan Act [205 ILCS 670].

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SUBPART A: GENERAL PROVISIONS

Section 110.1 Definitions

"Act" means the Consumer Installment Loan Act [205 ILCS 670].

"Affiliate", for purposes of Section 1 of the Act, means any person or entity that directly or indirectly controls, is controlled by, or shares control with another person or entity. A person or entity has control over another if the person or entity has an ownership interest of 25% or more in the other.

"Annual percentage rate" or "APR" is the cost of the consumer credit expressed as an annual rate, and shall be calculated in accordance with 205 ILCS 670/16.

"Controlling person" means a person, entity, or ultimate equitable owner that:

owns or controls, directly or indirectly, 10% or more of any class of stock of the license applicant;

is not a depository institution, as defined in Section 1007.50 of the Savings Bank Act [205 ILCS 205], that lends, provides, or infuses, directly or indirectly, in any way, funds to or into a license applicant in an amount equal to more than 10% of the license applicant's net worth;

controls, directly or indirectly, the election of 25% or more of the members of the board of directors of a license applicant; or

the Director finds influences management of the license applicant.

"Date of the loan" means the date on which the loan agreement is signed or accepted by the lender.

"Department" means the Department of Financial and Professional Regulation.

"Director" means the Director of the Department of Financial and Professional Regulation-Division of Financial Institutions with the authority delegated by the Secretary.

"Division" means the Department of Financial and Professional Regulation-Division of Financial Institutions.

"Generally accepted accounting procedures" or "GAAP" means those adopted by the American Institute of Certified Public Accountants and Federal Accounting Standards Board.

"Hypothecate" means to pledge a security instrument without transfer of title.

"Insurance Code" means 215 ILCS 5.

"Licensee" means a person, partnership, association, limited liability company, corporation or other legal entity licensed under the Act. Any person or entity who holds himself, herself or itself out as a licensee or who is accused of unlicensed practice is considered a licensee for purposes of enforcement, investigation, hearings and the Illinois Administrative Procedure Act [5 ILCS 100].

"Loan" means a loan governed by the Consumer Installment Loan Act.

"Missed Payment" means any failure to make a payment within 90 days of the due date.

"Obligor" means a consumer who is contractually obligated to make all principal repayments and interest payments on an outstanding loan ~~the person to whom the proceeds of a loan are delivered or on whose behalf the proceeds of a loan are expended.~~

"Predatory Loan Prevention Act" means the act codified at 815 ILCS 123 *et seq.*

"Predatory Loan Prevention Act Annual Percentage Rate" or "PLPA APR" is the cost of the consumer credit expressed as an annual rate and shall be calculated in accordance with 32 CFR 232.4(c), as in effect on the effective date of the Predatory Loan Prevention Act and as incorporated in 38 Ill. Adm. Code 215.

"Person" means an individual, partnership, association, joint stock association, corporation or any other form of business organization.

"Recording fee" is a fee paid to a government agency to record or release a security instrument.

"Sales Finance Agency Act" means 205 ILCS 660.

"Secretary" means the Secretary of the Department of Financial and Professional Regulation.

~~"Small consumer loan" means a loan upon which interest is charged at an annual percentage rate exceeding 36.00% and with an amount financed of \$4,000 or less. Small Consumer Loan does not include a title secured loan as defined by Section 15(a) of the Act or a payday loan as defined by the Payday Loan Reform Act [815 ILCS 122].~~

"Uniform Commercial Code" means 810 ILCS 5.

(Source: Amended at 46 Ill. Reg. _____, effective _____)

Section 110.2 Rate Cap Disclosure Notices

All applications for a loan must include a separate disclosure signed by the consumer that states: "A lender shall not contract for or receive charges exceeding a 36% annual percentage rate on the unpaid balance of the amount financed for a loan, as calculated under the Illinois Predatory Loan Prevention Act (PLPA APR). Any loan with a PLPA APR over 36% is null and void,

such that no person or entity shall have any right to collect, attempt to collect, receive, or retain any principal, fee, interest, or charges related to the loan. The annual percentage rate disclosed in any loan contract may be lower than the PLPA APR." This disclosure shall be clear and conspicuous and shall be substantially similar to the form in Appendix C. A lender shall provide all disclosures required by this section in English and in the same language as the loan agreement.

(Source: Added at 46 Ill. Reg. _____, effective _____)

Section 110.80 Simple Interest Loans

- a) No payment shall be accepted on the principal balance unless interest is paid to date or is agreed to by the licensee, except a payment may be credited to principal if the amount of the payment is not sufficient to pay the interest due for one day.
- b) A calendar month is the period from a given date in one month to the same numbered date in the following month, and if there is no same numbered date in the following month, to the last day of the following month.
- c) Interest shall be computed on the basis of one month's interest for each calendar month and 1/30th ~~1/30~~ of a month's interest for each day in a fraction of a month or, alternatively, 1/365th ~~1/365~~ of the agreed annual rate for each day actually elapsed.
- d) When a simple interest loan contract is renewed or refinanced, accrued but uncollected interest may be included in the principal amount of the new loan contract.
- e) Loans must be fully amortizing and repayable in substantially equal and consecutive weekly, biweekly, semimonthly, or monthly installments. Rates may vary according to an index that is independently verifiable and beyond the control of the licensee.

(Source: Amended at 46 Ill. Reg. _____, effective _____)

Section 110.100 Finance Charges – Rebates and Delinquency Charges

~~a) Computation of Finance Charge~~

- ~~1) On loans other than Small Consumer Loans on which monthly installment account handling charges are charged, charges may be computed on the original face amount of the loan contract for the full term of the loan contract.~~

~~2) Monthly installment account handling charges on Small Consumer Loans may be computed on the original amount financed under the loan contract for the full term of the loan contract at the permitted monthly installment account handling charge. Small Consumer Loans upon which monthly installment account handling charges are precomputed in this manner are deemed to be precomputed loans for all purposes unless otherwise specified by the Act.~~

~~3) The maximum charge so computed (or any lesser amount) may be added to the original principal amount of the loan or may be deducted from the face amount of the contract when the loan is made.~~

ab) A standard payment schedule is one under which a loan is repayable in substantially equal and consecutive weekly, biweekly, semimonthly, or monthly installments of principal and charges combined, and the first installment is due one weekly, biweekly, semimonthly, or monthly period from the date of the note, except as provided in subsections (b)(1), (2) and (3).

1) The loan contract shall be drawn to reflect a standard payment schedule with payments to be made on a weekly, biweekly, semimonthly, or monthly basis, except that the first installment period may exceed one weekly, biweekly, semimonthly, or monthly period by as much as the following:

A) For weekly payments, by 4 days;

B) For biweekly and semimonthly payments, by 7 days;

C) For monthly payments, by 15 days.

2) If a charge is made for extra days in the first installment period it may be added to the first installment payment. The interest for such period may be increased by $\frac{1}{30}$ of the agreed monthly rate for each extra day. A charge for extra days in the first installment period does not change the amount of rebate required for prepayment in full on or after the first installment date.

3) If the first installment period is less than one month the loan charge shall be reduced by $\frac{1}{30}$ of the agreed monthly rate for each day that the first installment period is less than one month, and the amount of the first installment shall be reduced by the same amount. Such adjustment in the first installment period does not change the amount of rebate required for

prepayment in full on or after the first installment date.

be) The obligor shall have the right to prepay a loan in full on any installment due date. When prepayment in full occurs on a date other than a scheduled installment due date, the rebate may be computed as of the next following scheduled installment due date.

cd) When the contract is renewed or refinanced before maturity, or judgment is obtained before maturity, the same rebate is required as for prepayment in full.

de) Any required rebate of finance charge for a precomputed loan may be calculated using the actuarial method, defined by the federal Truth in Lending Act (15 USC 1601 et seq.) and Regulation Z, Appendix J (12 CFR 226) or any other method permitted by the Act. The required rebate is a fraction (or percentage) of the precomputed interest charge. The fraction differs for each number of months that the contract is prepaid in full. ~~Rebate of Finance Charge~~

~~1) The Rule of 78 shall be the method of rebating precomputed contracts other than Small Consumer Loans. The rebate shall be that proportion of the original charge for the loan that the sum of the monthly balances scheduled to follow the prepayment in full bears to the sum of all the monthly balances, both sums to be determined according to the originally contracted payment schedule. The required rebate is a fraction (or percentage) of the precomputed interest charge. The fraction differs for each number of months that the contract is prepaid in full.~~

~~2) The unearned interest or unearned portion of the monthly installment account handling charge that is refunded shall be calculated based on a method that is at least as favorable to the consumer as the actuarial method, defined by the federal Truth in Lending Act (15 USC 1601 et seq.) and Regulation Z, Appendix J (12 CFR 226 (2011); this incorporation by reference includes no subsequent dates or editions). The Department will post on its website a method of rebate calculation that conforms with Appendix J. Licensees may submit to the Department requests for approval of additional methods of rebate calculation that conform to Appendix J. All methods approved by the Department will be posted on the Department's website. The Department shall make its best efforts to respond to all licensee requests for use of a method. The use of any posted method will constitute compliance with the requirements of this subsection (c)(2). The sum of the digits method and Rule of 78 method of calculating prepaid interest refunds are prohibited.~~

ef) When a precomputed interest loan contract is renewed or refinanced, accrued but

uncollected interest may be included in the principal amount of the new loan contract.

f) Delinquency or Default Charges

- 1) All delinquency or default charges ~~(Default Charges)~~ shall comply with the requirements and provisions of the applicable statute under which the contract was made.
- 2) Delinquency or default charges may be assessed and collected and added to the balance of the note, but interest shall not be collected on said charge.
- 3) Earned, but uncollected, delinquency or default charges shall be recorded on the account record on the date the delinquent payment is received, if the licensee intends to collect the charges at a later date.

g) If two or more installments are delinquent on any installment date the contract balance may be reduced as of that date by the rebate that would be required for prepayment in full on that date. Thereafter, the agreed contractual rate may be charged on the actual unpaid balances of the loan contract until the contract is fully paid ~~or, in the case of Small Consumer Loans, interest at the rate of 18% per annum may be charged in the unpaid balance until fully paid.~~ Interest so received shall be in lieu of the rebated charges and any delinquency or default charge that would otherwise accrue after the date of which the rebate was made.

h) When a contract is prepaid in full, a statement or receipt shall be given to the obligor, showing the date of prepayment, the amount of the rebate, if any, and the amount paid to discharge the loan.

i) Fifteen days after the expiration date of the loan contract, interest may be charged at the contractually agreed rate, not to exceed the rate permitted in Section 15 of the Act ~~or, in the case of precomputed Small Consumer Loans, interest at the rate of 18% per annum,~~ on any balance remaining unpaid. At the time of final payment the licensee shall notify the obligor of the balance unpaid.

j) Deferment

- 1) The maximum amount that may be charged for a one month's deferment is equal to the difference between the rebate that would be required for prepayment in full as of the scheduled due date of the deferred installment and the rebate that would be required for prepayment in full as of one month prior to the due date.

- 2) On a precomputed loan the rebate for prepayment in full after deferment interest has been charged shall be larger than the rebate that otherwise would be required.
- 3) If a rebate is required one month or more before the deferred due date of the first deferred installment, the licensee, at its option, may make a separate rebate of deferment interest for each unexpired month of the deferment period and then rebate the standard precomputed finance charge for the number of months to the original final installment date, plus one month for each month that deferment is retained.

(Source: Amended at 46 Ill. Reg. _____, effective _____)

Section 110.215 Document Preparation Fee (Repealed)

~~Except for Small Consumer Loans, a licensee may assess the obligor a document preparation fee not to exceed \$25. This fee may be assessed for consummated loans only and shall be itemized and disclosed in the loan contract as prescribed under the federal Truth in Lending Act. In the event of prepayment in full, no portion of this fee is required to be refunded.~~

(Source: Repealed at 46 Ill. Reg. _____, effective _____)

Section 110.216 Small Consumer Loans; Charges Permitted (Repealed)

~~A licensee may charge fees for Small Consumer Loans as permitted by Section 17.2 of the Act and as otherwise permitted in the Act.~~

(Source: Repealed at 46 Ill. Reg. _____, effective _____)

Section 110.240 Hearing Procedures

- a) Hearings
After receipt of a written request for a hearing, the Director shall send to the respondent requesting the hearing, by certified mail, at least 10 days prior to the date set for the hearing, a Notice of Hearing. The Notice shall include the date and the time and place of the hearing to review the propriety of any administrative actions made pursuant to the Act.
- b) The Director may designate, in writing, a Hearing Officer who shall have the minimum qualification of being licensed to practice law in Illinois. The Hearing Officer may be disqualified for bias or conflict of interest. The Hearing Officer shall have the authority to:

- 1) Examine or permit examination of any witness under oath;
 - 2) Determine the order of appearance of all parties;
 - 3) Receive all evidence and testimony and rule on its admissibility, as well as require the production of any relevant document or witness;
 - 4) Rule on objections to evidence;
 - 5) Make a written report with recommendations to the Director, which shall include findings of fact and conclusions of law. Findings of fact shall be based exclusively on the evidence and on matters officially noticed; and
 - 6) Require any party or his or her attorney to provide proposed findings of fact or conclusions of law for consideration in the report.
- c) General Provisions
- 1) Delivery of notice shall be deemed complete when the notice is deposited in the United States mail.
 - 2) Continuances
 - A) A continuance shall be granted for good cause by the Hearing Officer, which shall be:
 - i) In writing and signed by the respondent or his or her attorney and shall state the reasons for the request.
 - ii) Delivered to the Hearing Officer at least three days prior to the scheduled hearing.
 - B) For the purposes of this subsection (c)(2), good cause shall require the respondent to demonstrate real and compelling need for additional time. It shall include but not be limited to illness, service in the armed forces, etc.
 - 3) The respondent shall bear all the costs of the hearing.
 - 4) A court reporter shall be present and considered part of the costs of the hearing.

d) Conduct of Hearings

- 1) The Hearing Officer shall open the hearing by presenting for the record his or her letter of authorization from the Director.
- 2) The rules of evidence and privilege as applied in civil cases in the Circuit Courts of this State shall be followed. The Hearing Officer may admit evidence not admissible under those rules if the evidence may be relevant to the case.
- 3) The Hearing Officer may, on his or her own motion or the motion of one of the parties, take notice of matters of which the Circuit Courts of this State may take judicial notice. *Notice may be taken of generally recognized technical or scientific facts within the Department's specialized knowledge if parties are notified, before or during the hearing, and shall be afforded an opportunity to contest the material so noticed.* [5 ILCS 100/10-40(c)] The burden of opposing any material admitted upon notice shall be upon the opposing party.
- 4) Failure of the respondent to attend the hearing shall result in dismissal of the respondent's petition and an entry of a default [judgment](#) against the respondent. Within 30 days from dismissal of the respondent's petition, the respondent may petition the Hearing Officer for reconsideration if the respondent can establish that his or her failure to attend was caused by events beyond his or her control and he or she exercised due diligence to attend or seek a continuance.
- 5) The record of any hearing shall include:
 - A) All pleadings and evidence received, whether admitted or excluded;
 - B) A statement of all matters officially noticed;
 - C) All offers of proof, objections and rulings on that proof and those objections;
 - D) All proposed findings and exceptions;
 - E) Any decision, opinion, or report by the Hearing Officer;
 - F) Any evidence excluded by the Hearing Officer, even though the evidence is not used in the determination of the claim;

- 517
- 518 G) A proceeding transcript that shall be recorded to adequately ensure
- 519 the preservation of the testimony.
- 520
- 521 6) Within 60 days after the hearing or the receipt of all necessary documents,
- 522 the Hearing Officer shall report to the Director as required by subsection
- 523 (b)(5).
- 524
- 525 7) Within 30 days after receiving the report of the Hearing Officer, the
- 526 Director shall issue a decision that shall be served on the respondent by
- 527 registered or certified mail, return receipt requested. Copies of the
- 528 Hearing Officer's report to the Director are available upon written request.
- 529
- 530 e) Petition to Reconsider
- 531
- 532 1) Within 30 days after receipt of the Director's decision, the respondent may
- 533 petition the Director for reconsideration based upon a verified petition.
- 534 An affidavit shall accompany the petition stating that the decision was
- 535 against the preponderance of the evidence, was contrary to law, or was
- 536 arbitrary or capricious, or is affected by newly discovered evidence not in
- 537 existence at the time of the initial hearing or that could not have been
- 538 discovered using due diligence at that time.
- 539
- 540 2) The Director shall determine within 15 days whether to reconsider the
- 541 case. If the Director determines after reading the affidavit that one or
- 542 more of the findings listed in subsection (e)(1) has been alleged by the
- 543 respondent, a hearing may be held and shall be limited to only those issues
- 544 raised in the petition to reconsider. If reconsideration is denied, the
- 545 Director's initial decision shall be the final administrative decision of the
- 546 Department.
- 547

548 (Source: Amended at 46 Ill. Reg. _____, effective _____)

549

550 **Section 110.290 Consumer Reporting Service**

551

- 552 a) For the purposes of this Section, "certified database" means the consumer
- 553 reporting service database established pursuant to the Payday Loan Reform Act
- 554 [815 ILCS 122].
- 555
- 556 b) For any loan other than a title-secured loan the licensee shall enter the following
- 557 information into the certified database within 90 days after the loan is made:
- 558

- 1) Social security number, alien identification number or other official identification number, as approved by the Patriot Act, issued by a foreign government or government in the United States;
 - 2) The principal amount of the loan;
 - 3) The total of payments;
 - 4) whether the loan is precomputed or interest-bearing;
 - 5) The maturity date of the loan;
 - 6) The date of the loan;
 - 7) The number and amount of scheduled payments;
 - 8) Zip code of obligor and any co-maker;
 - 9) Security taken;
 - 10) APR;
 - 11) PLPA APR;
 - 12) Whether the loan pays off any prior loan; and
 - 13) Any additional information the Director may require. ~~Within 90 days after making a Small Consumer Loan, a licensee shall enter information about the loan into the certified database.~~
- c) The lender shall update the certified database within 90 days if any of the following events occur:
- 1) Missed Payment;
 - 2) Late payment fee charged
 - 3) Licensee accelerates the loan or otherwise deems the loan immediately due in full;
 - 4) Paying the loan in full;
 - 5) Closing of the loan;

- 602
- 603 6) Writing off the loan;
- 604
- 605 7) Involuntary repossession of any security;
- 606
- 607 8) Voluntary surrender of any security
- 608
- 609 9) Sale of any security; or
- 610
- 611 10) Return of any security to consumer
- 612
- 613 11) Any other event as the Director may require. For every Small Consumer
614 ~~Loan made, the licensee shall input the following information into the~~
615 ~~certified database within 90 days after the loan is made:~~
616
- 617 1) ~~the consumer's name and official identification number (for purposes of~~
618 ~~this Act, "official identification number" includes a Social Security~~
619 ~~Number, an Individual Taxpayer Identification Number, a Federal~~
620 ~~Employer Identification Number, an Alien Registration Number, or an~~
621 ~~identification number imprinted on a passport or consular identification~~
622 ~~document issued by a foreign government);~~
623
- 624 2) ~~the consumer's gross monthly income;~~
625
- 626 3) ~~the date of the loan;~~
627
- 628 4) ~~the amount financed;~~
629
- 630 5) ~~the term of the loan;~~
631
- 632 6) ~~the acquisition charge;~~
633
- 634 7) ~~the monthly installment account handling charge;~~
635
- 636 8) ~~the fee permitted under Section 17.2(c) of the Act;~~
637
- 638 9) ~~the number and amount of payments; and~~
639
- 640 10) ~~whether the loan is a first or subsequent refinancing of a prior Small~~
641 ~~Consumer Loan.~~
642
- 643 d) ~~Once a small consumer loan is entered into the certified database, the certified~~
644 ~~database shall provide to the licensee a dated, time-stamped statement~~

acknowledging the certified database's receipt of the information and assigning each loan a unique loan number.

- e) ~~The licensee shall update the certified database within 90 days if any of the following events occur with respect to a small consumer loan:~~
 - 1) ~~the loan is paid in full by cash. For purposes of this subsection (e)(1), "cash" includes currency, personal checks, money orders, third party checks and any other medium of exchange representing immediately available funds;~~
 - 2) ~~the loan is refinanced;~~
 - 3) ~~the loan is renewed;~~
 - 4) ~~the loan is satisfied in full or in part by collateral being sold after default;~~
 - 5) ~~the loan is cancelled or rescinded; or~~
 - 6) ~~the consumer's obligation on the loan is otherwise discharged by the licensee.~~
- f) ~~To the extent a licensee sells a product or service to a consumer, in addition to a Small Consumer Loan, and finances any portion of the cost of the product or service, the licensee shall, in addition to and at the same time as the information inputted under subsection (d), enter into the certified database:~~
 - 1) ~~a description of the product or service sold;~~
 - 2) ~~the charge for the product or service; and~~
 - 3) ~~the portion of the charge for the product or service, if any, that is included in the amount financed by a Small Consumer Loan.~~
- dg) The certified database provider shall indemnify the licensee against all claims and actions arising from illegal or willful or wanton acts on the part of the certified database provider. The certified database provider may charge a fee not to exceed \$1 for each loan entered into the certified database under subsection (be). The database provider shall not charge any additional fees or charges to the licensee.
- eh) All personally identifiable information regarding any consumer obtained by way of the certified database and maintained by the Department is strictly confidential

and shall be exempt from disclosure under Section 7(1)(c) of the Freedom of Information Act [5 ILCS 140].

~~f)~~ A licensee who submits information to a certified database provider in accordance with this Section shall not be liable to any person for any subsequent release or disclosure of that information by the certified database provider, the Department, or any other person acquiring possession of the information, regardless of whether the subsequent release or disclosure was lawful, authorized or intentional.

~~g)~~ To the extent the certified database becomes unavailable to a licensee as a result of some event or events outside the control of the licensee including but not limited to unavailability due to the certified database being unable to accept information from the licensee or the certified database is decertified, the requirements of this Section and Section 17.5 shall not be enforceable by the Department ~~17.4 of the Act are suspended~~ until such time as the certified database becomes available.

~~h)~~ The Section shall only apply to loans made 95 or more days after the effective date of the amendments published for first notice in the May 14, 2021 Illinois Register.

~~k)~~ ~~Beginning June 1, 2011, licensees must comply with the requirements of subsections (b) through (f) of this Section.~~

(Source: Amended at 46 Ill. Reg. _____, effective _____)

SUBPART B: TITLE-SECURED LENDING

Section 110.300 Definitions

~~"Interest bearing loan" shall mean a loan in which interest is charged upon the principal amount borrowed.~~

~~"Refinance" shall mean to renew or extend a loan beyond its original term.~~

"Motor vehicle" shall mean a motor vehicle as defined in the Illinois Vehicle Code [625 ILCS 5/1-146].

"Title-secured lender" shall mean any lender engaged in making any title-secured ~~title-secured~~ loans.

"Title-secured loan" shall mean a loan made pursuant to the Act and in which ~~upon which interest is charged at an annual percentage rate exceeding 36~~

~~percent in which,~~ at commencement, an obligor provides to the licensee, as security for the loan, physical possession of the obligor's title to a motor vehicle. The Department interprets "title-secured loan" to mean only loans secured by a motor vehicle title which a consumer has possessed – physically or the electronic equivalent – at any time prior to the making of the loan, free and clear of any lienholder. The Department interprets "title-secured loan" to exclude:

- a) Any loan or credit transaction that is expressly intended to finance the purchase of motor vehicle or other item.
- b) Any loan or credit transaction that is expressly intended to re-finance a transaction which financed the purchase of a motor vehicle or other item.

The Department interprets "title-secured loan" to include a loan or credit transaction that includes motor vehicle title as a security and is intended to refinance a prior title-secured loan.

(Source: Amended at 46 Ill. Reg. _____, effective _____)

Section 110.320 Application for License (Repealed)

~~In addition to the licensing requirements of Section 110.15 of this Part, a title-secured lender making application for license shall provide, as part of the application submitted to the Division, a statement certifying compliance with any and all applicable local ordinances pertaining to the applicant's proposed business.~~

(Source: Repealed at 45 Ill. Reg. _____, effective _____)

Section 110.330 Renewal of License (Repealed)

~~At the time of renewal of a license, and in addition to paying the fees and complying with the other requirements of the Act, a title-secured lender must submit a statement certifying compliance with any and all applicable local ordinances pertaining to the licensed business.~~

(Source: Repealed at 45 Ill. Reg. _____, effective _____)

Section 110.340 Loan Terms~~Simple Interest and Repayment~~

- a) Any required rebate of finance charge for a precomputed title-secured loan may be calculated using the actuarial method, defined by the federal Truth in Lending Act (15 USC 1601 et seq.) and Regulation Z, Appendix J (12 C.F.R. 226). The required rebate shall not be calculated using the Rule of 78s.~~A title-secured lender~~

~~must compute interest on all title secured loans as simple interest, as defined in Section 110.80(c) of this Part.~~

- b) Title-secured loans must be fully amortized and repayable in substantially equal installments.

(Source: Amended at 46 Ill. Reg. _____, effective _____)

Section 110.370 Lending Limits and Refinancing

- a) ~~No title-secured~~~~A title secured loan may not exceed \$4,000 in principal amount. However, no~~ loan shall be made in such amount that the scheduled principal and interest payment for any one monthly payment on the loan exceeds 22.5%~~50%~~ of the obligor's gross monthly income, ~~except to the extent that loan prepayment is allowed by Section 16(j) of the Act.~~
- b) ~~Title Secured Loan Refinancing~~
 - 1) ~~A title-secured loan may be refinanced, but only when the original principal of the loan has been reduced by at least 20%.~~
 - 2) ~~The principal amount of the new title secured loan may not exceed the total outstanding balance of the refinanced loan.~~
 - e) ~~No loan, other than the refinancing of an existing title-secured loan, may be made to an obligor who has had an outstanding title-secured loan within the preceding 15 days. No loan, other than the refinancing of an existing title-secured loan, may be made within 15 days after the occurrence of any event listed in Section 110.420(h)(4)(A) through (D) or within 15 days after the maturity date of a title-secured loan.~~
 - d) ~~The loan agreement must include a separate statement signed by the obligor attesting that the obligor has not had an outstanding title-secured loan within the preceding 15 days. This subsection shall not apply if the Director has approved a database pursuant to subsection (g).~~
 - be) The loan agreement shall advise the obligor that matters involving improprieties in the making of the loan or in loan collection practices may be referred to the Division and shall prominently disclose the Division's address and telephone number.
 - f) ~~Each title-secured loan refinancing agreement executed by a licensee shall include a statement, which shall be initialed by the obligor, as follows: "I have received~~

~~from (name of lender) a toll free number from the Department of Financial and Professional Regulation Division of Financial Institutions that I can call for information regarding debt management service."~~

- ~~g) Before entering into a loan agreement or refinancing agreement with an obligor, the lender shall use a database approved by the Director to verify that the proposed loan agreement or refinancing agreement is permissible under this Section.~~

(Source: Amended at 46 Ill. Reg. _____, effective _____)

Section 110.390 Possession of Vehicle

- a) Unless otherwise provided for in the loan agreement, a lender shall not take or retain possession of the keys (or a copy of the keys) to a motor vehicle used to secure a title-secured loan.
- b) No title-secured lender may take possession of a vehicle without first giving notice to the obligor; affording the obligor the opportunity to make the vehicle available to the lender at a place, date and time reasonably convenient to the lender and obligor; and permitting the obligor to remove any personal belongings from the vehicle without charge or additional cost to the obligor.
- c) Possession measures shall be in accordance with Section 19.1 of the [Consumer Installment Loan](#) Act.
- d) No title-secured lender may take possession of a motor vehicle for a loan default [or delinquency](#) and lease the vehicle back to the obligor.

(Source: Amended at 46 Ill. Reg. _____, effective _____)

Section 110.420 Approved Database

- a) ~~The~~ [By October 1, 2009, the](#) Division shall approve a database as a method of verification of the requirements of Section 110.370 of this Part. Upon approving a database, the Department shall:
 - 1) provide reasonable notice to all lenders identifying the approved database provider; and
 - 2) immediately upon approval, require each lender to use the database as a means of complying with Section 110.370 of this Part.

- b) Except as otherwise provided in this Section, all personally identifiable information regarding any prospective obligor or obligor obtained by way of the approved database and maintained by the Department is strictly confidential and shall be exempt from disclosure under Section ~~7(1)(c)7(1)(b)(i)~~ of the Freedom of Information Act [5 ILCS 140/7(1)(c)~~140/7(1)(b)(i)~~].
- ~~e) Notwithstanding any other provision of law to the contrary, an obligor seeking a title-secured loan may make a direct inquiry to the database to request a more detailed explanation of the basis for the database provider's determination that the obligor is ineligible for a title-secured loan.~~
- cd) In approving a database provider, the Department shall ensure that the approved database complies with the following provisions:
- 1) Single, centralized consumer reporting service to track title-secured loan transactions made by lenders on a real time basis through an internet connection or, if real-time access through an internet connection becomes unavailable to lenders due to the database provider's technical problems, through alternative verification mechanisms, including, but not limited to, verification by telephone;
 - 2) Real-time access by the Department and lenders to verify that prospective~~individual~~ obligors are eligible for a loan pursuant to the requirements of Section 110.370 and in order to provide any other information that the Department deems necessary;
 - 3) Customer support to lenders and obligors during regular business hours;
 - 4) Develop and provide training to Department staff and lenders prior to implementation and on an ongoing basis;
 - 5) Provide a charge-back methodology to lenders not to exceed \$1 for each search to determine eligibility of the prospective obligor for a loan under Section 110.370;
 - 6) Require lenders to input whatever information is required by the Department;
 - 7) Maintain a real-time copy of the required reporting information that is available to the Department at all times and is the property of the Department; and

8) ~~Provide lenders only with a statement that an obligor is eligible or ineligible for a title secured loan and a description of the reason for the determination; and~~

89) Implement safeguards to ensure that all information contained in the database regarding prospective obligors and obligors is kept strictly confidential.

de) A lender may rely on the information contained in the approved database as accurate and is not subject to any administrative penalty or liability as a result of relying on inaccurate information contained in the database.

df) The approved database provider shall indemnify the lender against all claims and actions arising from illegal or willful or wanton acts on the part of the approved database provider.

fg) Database Provider Qualifications

1) The database provider shall have at all times a net worth of not less than \$1,000,000 calculated in accordance with generally accepted accounting principles (Wiley GAAP, published by John Wiley and Sons, 605 Third Avenue, New York NY 10158-0012, 2008, no later editions or amendments included).

2) Each application for approval under this Section shall be accompanied by a nonrefundable investigation fee of \$2,500, together with an initial database approval fee of \$1,000.

3) On or before March 1st of each year, the approved database provider shall pay to the Department an approval fee in the amount of \$1,000.

4) The database provider shall have a surety bond of at least \$5,000,000. The surety bond shall be in a form satisfactory to the Department and shall run to the State of Illinois for the benefits of any claimants against the database provider to secure the faithful performance of its obligations under the Act and this Part. The aggregate liability of the surety may exceed the principal sum of the bond. Claimants against the database provider may themselves bring suit directly on the surety bond or the Department may bring suit on behalf of claimants, either in one action or successive actions.

gh) Lender Input into Database

- 1) ~~The lender shall input the following information into the approved database to determine whether the obligor is eligible for a title secured loan pursuant to Section 110.370:~~
 - ~~A) Obligor's Social Security Number or Alien Identification Number;~~
 - ~~B) Obligor's gross monthly income;~~
 - ~~C) The principal amount of the loan;~~
 - ~~D) The term of the loan; and~~
 - ~~E) Any additional information required by the database provider.~~
- 2) ~~The lender shall input the following information into the approved database to determine whether the obligor is eligible to refinance a title secured loan pursuant to Section 110.370:~~
 - ~~A) Obligor's Social Security Number or Alien Identification Number;~~
 - ~~B) Obligor's gross monthly income;~~
 - ~~C) The principal amount of the loan;~~
 - ~~D) The term of the loan; and~~
 - ~~E) Any additional information required by the database provider.~~
- 13) Within 90 days after~~On the same day~~ a title-secured loan is made, the lender shall enter into~~update~~ the approved database ~~with~~ the following information:
 - A) Obligor's Social Security Number or Alien Identification Number or other official identification number, as approved by the Patriot Act, issued by a foreign government or government in the United States;;
 - B) The principal amount of the loan;
 - C) The total of payments~~amount of the loan;~~
 - D) The term of the loan and the maturity date of the loan; ~~and~~

- E) The date the loan was executed;
- F) The schedule number and amount of payments;
- G) Zip code of obligor and any co-maker;
- H) Any security taken;
- I) APR;
- J) PLPA APR;
- K) Vehicle identification number of security;
- L) Whether the loan pays off any prior loan; and
- M) Whether the loan is interest-bearing or precomputed;
- N) Any additional information the Director may require~~required by the database provider.~~

24) The lender shall update the approved database within 90 days if~~with the information required by the database provider on the same day that~~ any of the following events occur:

- A) Paying the loan in full;
- B) Return of any security;
- C) Closing the loan~~due to the collateral being sold after default;~~
- D) Writing off the loan;~~or~~
- E) Missed Payment;
- F) Late payment fee charged;
- G) Voluntary surrender of any security;
- H) Involuntary repossession of any security;
- I) Sale of any security;

J) Licensee accelerates the loan or otherwise deems the loan immediately due in full; or

~~KE)~~ Any other transaction the Director may require~~as required by the database provider.~~

h) All personally identifiable information regarding any consumer obtained by way of the certified database and maintained by the Department is strictly confidential and shall be exempt from disclosure under subsection (c) of Section 7 of the Freedom of Information Act.

This Section shall only apply to loans made 95 or more days after the effective date of the amendments published for first notice in the May 14, 2021 *Illinois Register*.

(Source: Amended at 46 Ill. Reg. _____, effective _____)

Section 110.430 Gross Monthly Income Verification

Prior to making a title-secured loan, the lender must obtain from the obligor one or more of the following types of documentation to verify the gross monthly income of the obligor as required by Section 110.370(a).

a) A copy of the prospective obligor's most recent official pay stub or official payroll receipt;

b) a copy of the prospective obligor's most recent W2 or tax return, along with reasonable evidence that the prospective obligor has access to the same income in the 30 days before the origination date of the loan;

c) Signed and verifiable documentation prepared by the provider of the income, dated no more than 30 days before the origination date of the loan;

d) A contract that provides for funds to have been paid to the prospective obligor within the 30 days prior to the origination date of the loan, and documentation reflecting that the funds have actually been paid;

~~e~~b) A copy of the prospective obligor's most recent official receipt documenting payment of government or pension benefits to the obligor for the benefit of the obligor; or

~~f~~e) Other documentation as approved by the Director in writing.

(Source: Amended at 46 Ill. Reg. _____, effective _____)

Section 110.APPENDIX C Disclosure of 36% Rate Cap

DISCLOSURE OF 36% RATE CAP

A lender shall not contract for or receive charges exceeding a 36% annual percentage rate on the unpaid balance of the amount financed for a loan, as calculated under the Illinois Predatory Loan Prevention Act (PLPA APR)

Any loan with a PLPA APR over 36% is null and void, such that no person or entity shall have any right to collect, attempt to collect, receive, or retain any principal, fee, interest, or charges related to the loan.

The annual percentage rate disclosed in any loan contract may be lower than the PLPA APR.

Applicant Signature

Co-Applicant Signature (If Applicable)

(Source: Added at 45 Ill. Reg. _____, effective _____)